

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE:

DAGMAR I KERN

AND

HANS P KERN

Debtors

Address: 15238 Louis Mill Dr

Chantilly, VA 20151-1317

15238 Louis Mill Dr

Chantilly, VA 20151-1317

Last four digits of Social Security No.(s): XXX-XX-1031 and
XXX-XX-1760

BCN #: 18-13273-BFK

Chapter: 7

NOTICE OF MOTION AND HEARING

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314, and serve a copy on the Movant. Unless a written response is filed and served within this fourteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an Order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen day period.

You may attend the preliminary hearing scheduled to be held on: November 21, 2018 at 9:30 AM in Courtroom I, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting the requested relief.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: October 8, 2018

/s/ Mary F. Balthasar Lake

BY: Gregory N. Britto, Esquire, VSB #23476
William M. Savage, Esquire, VSB #26155
Malcolm B. Savage, III, Esquire, VSB #91050
Thomas J. Gartner, Esquire, VSB #79340
Mary F. Balthasar Lake, Esquire, VSB #34899
Matthew Beddingfield, Esquire, VSB #87305
SHAPIRO & BROWN, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
(703) 449-5800
VABECF@logs.com

CERTIFICATE OF SERVICE

I certify that I have this 8th day of October, 2018, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

Robert R. Weed
Law Offices Of Robert Weed
1376 Old Bridge Rd
Suite 101-4
Woodbridge, VA 22192

H. Jason Gold
Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue, N.W. Suite 900
Washington, DC 20001

Dagmar I Kern
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Chantilly, VA 20151-1317

Hans P Kern
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/s/ Mary F. Balthasar Lake

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Matthew Beddingfield, Esquire, VSB #87305

S&B# 18-276414

United States Bankruptcy Court
Eastern District of Virginia
Alexandria Division

In Re:
Hans P Kern and Dagmar I Kern
Debtors

BCN#: 18-13273-BFK
Chapter: 7

Lehman XS Trust Mortgage Pass-Through
Certificates, Series 2006-GP2, U.S. Bank
National Association, as Trustee
Movant/Secured Creditor,

Motion for Order Granting Relief from
Automatic Stay under 11 USC §362

v.
Dagmar I Kern and Hans P Kern
Debtors
and
H. Jason Gold
Trustee
Respondents

Lehman XS Trust Mortgage Pass-Through Certificates, Series 2006-GP2, U.S. Bank
National Association, as Trustee, and/or present noteholder, (hereinafter “the Movant”), alleges
as follows:

1. That the bankruptcy court has jurisdiction over this contested matter pursuant to
28 U.S.C. § 157 and § 1334 and 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014;
and Local Bankruptcy Rule 4001(a)-1.

2. That the above named Debtors filed a Chapter 7 Petition in Bankruptcy with this
Court on September 27, 2018.

3. That H. Jason Gold has been appointed by this Court as the Chapter 7 Trustee in
this instant Bankruptcy proceeding.

4. That the subject Deed of Trust secures a parcel of real property (hereinafter “the
Property”) with the address of 15238 Louis Mill Dr, Chantilly, VA 20151 and more particularly
described in the Deed of Trust dated March 27, 2006 and recorded as Deed Book 18339, Page
2054 among the land records of the said city/county, as:

LOT 206, SECTION THREE, PLEASANT VALLEY SUBDIVISION, AS THE SAME APPEARS DULY DEDICATED, PLATTED, AND RECORDED IN DEED BOOK 4963 AT PAGE 49, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA

5. That the Movant is informed and believes, and, based upon such information and belief, alleges that title to the Property is currently vested in the name of the Debtors.

6. That the Debtors are in default with regard to payments which have become due under the terms of the Note and Deed of Trust.

As of October 2, 2108, the Debtors are due for:

- o 6 monthly payments from April 2018 through September 2018 of \$2,141.79 each which were to be paid directly to Movant;
- o 1 monthly payments from October 2018 through October 2018 of \$2,174.97 each which were to be paid directly to Movant;
- o Bankruptcy Fees of \$750.00
- o Bankruptcy Costs of \$181.00

7. Movant has elected to initiate foreclosure proceedings on the Property with respect to the Deed of Trust, but is prevented by the Automatic Stay from going forward with these proceedings.

8. That the Movant is informed and believes, and, based upon such information and belief, alleges that the Debtors have little or no equity in the property as there is a second Deed of Trust.

9. That the Movant is informed and believes that the Debtors intend to surrender the property based upon the Statement of Intentions filed September 27, 2018.

10. That continuation of the automatic stay pursuant to 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362.

11. That the Movant has requested that the Court hear this matter on November 21, 2018 at 9:30 AM.

WHEREFORE, Movant prays for an order granting relief from the Automatic Stay in order to pursue its remedies under the terms of its Note and Deed of Trust, that the fourteen (14) day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, for its attorneys fees' and costs expended, and for such other and further relief as the Court and equity deem appropriate.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: October 8, 2018

/s/ Mary F. Balthasar Lake
BY: Gregory N. Britto, Esquire
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(703) 449-5800
VABECF@logs.com

Certificate of Service

I certify that I have this 8th day of October, 2018, electronically transmitted and/or mailed by first class mail, true copies of the Motion for Relief from the Automatic Stay and Notice of Motion and Hearing to each party required to receive notice.

Robert R. Weed
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Woodbridge, VA 22192

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